

Chan. Div.]

NOTES OF CANADIAN CASES.

[Chan. Div.]

of the mortgage did not have the effect of again vesting the estate in J. O'N. and R. O'N. so that the dower of their wives attached.

It appearing that certain lands owned by J. O'N. and R. O'N. were part of the assets of the partnership, having been purchased with partnership funds, and the rents afterwards collected and received by the partnership, and treated in all respects as partnership moneys:

*Held*, that the wives of J. O'N. and R. O'N. had no inchoate right of dower in these lands.

*Mowat, Maclellan and Downey*, vendors' solicitors.

*Dumble and Henry*, purchaser's solicitors.

Ferguson, J.]

[Feb. 28.]

## LANGTRY V. DUMOULIN.

*Constitutional law—29-30 Vict. c. 16—Evidence—Journals of Parliament.*

The Act of the late Province of Canada, 29-30 Vict. c. 16, being An Act to provide for the sale of the rectory lands of this Province is a valid Act. and not *ultra vires*. The Imp. 17-18 Vict. c. 118, s. 6 removed the restrictions upon legislation on the subject matter of 29-30 Vict. c. 16, which previously existed by force of Imp. 31 Geo. III. c. 31, s. 42, and Imp. 3-4 Vict. c. 45, s. 42. Nor does the case of *Dobie v. The Board for the Management of the Temporalities Fund of the Presbyterian Church of Canada*, L. R. 7 App. Cas. 136 apply to the case of 29-30 Vict. c. 16, so as to shew it be *ultra vires*.

Certain alleged copies of Journals of Parliament were tendered in evidence for the purpose of shewing what the Legislature must have meant by certain words in a certain Act of Parliament. It was not satisfactorily shewn that originals of which the copies tendered were said to be copies ever existed, nor was it shewn by legal evidence that the copies tendered were copies of any original. It was, however, shewn that the copies came from the Parliamentary Library at Ottawa; and most of the copies purported to have been printed by the Queen's Printer.

*Held*, that, in the absence of a statute in this country making them receivable in evidence, they were not admissible.

*Held*, on the whole case, that all the lands in question were within the description contained

in 29-30 Vict. c. 16, s. 1, and the plaintiffs were entitled to a declaration that the defendant, Dumoulin, held the said lands as trustee merely pursuant to the provisions of the said Act, and of 39 Vict. c. 109, and to an account as claimed.

*H. Cameron, Q.C.*, and *J. Maclellan, Q.C.*, for the Synod of Toronto.

*J. Bethune, Q.C.*, and *W. Barwick*, for the plaintiffs other than the Synod.

*C. Robinson, Q.C.*, *S. H. Blake, Q.C.*, *B. B. Osler, Q.C.*, and *H. D. Gamble*, for the defendant, Dumoulin.

*E. D. Armour*, for defendant, Baldwin.

*A. Hoskin, Q.C.*, for the township Rectors.

Ferguson, J.]

[March 17.]

## BURN V. BURN.

*Undue influence—Father and son—Parties—Privy—Action against executor and surviving partner—Corroborative evidence—R.S.O. c. 62, s. 10.*

On June 23rd, 1873, D. B., by will, gave the residue of his property to the plaintiff absolutely, and nominated the plaintiff to succeed to his interest in a certain joint savings bank business, known as Burn & Co. He appointed the defendant, L., executor of his will.

D. B. died April 23rd, 1874, at which time he, and the defendant W. D. B., constituted the firm of Burn & Co.

W. D. B. was the father of the plaintiff in this action. The articles of partnership was dated April 12th, 1873, and provided that the partnership should continue during the joint lives of the two partners, D. B. and W. D. B., who were to halve the profits and expenses. This was the business referred to in the will.

On Dec. 23rd, 1872, according to the allegation of W. D. B., D. B. transferred to him by way of gift \$100 shares of Dominion stock—part of the assets of the firm.

On May 6th, 1874, L. gave W. D. B. a full and general power of attorney to act for him, as executor of the will of D. B.

In the present action the plaintiffs alleged that after the death of D. B., W. D. B., with L.'s connivance, entered into an agreement with the Dominion Bank, whereby the said bank took over the partnership business, and carried the assets for the benefit of the partnership till it could be advantageously wound up, and that large portions of such assets had since been realized which had, together with the